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ESTATE OF SAOUN POL and J.P.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

ESTATE OF SAOUN POL, et al.,  
Plaintiffs,  
vs.  
CITY OF STOCKTON, et al.,  
Defendants.

Case No.

**PLAINTIFF J.P.'S *EX PARTE* MOTION FOR  
APPOINTMENT OF GUARDIAN AD LITEM**

**I. INTRODUCTION**

Plaintiff J.P., a minor, requests the appointment of Channy Sok-Hang, his mother, as his guardian *ad litem* for purposes of prosecuting this action.

**II. STATEMENT OF RELEVANT FACTS**

Plaintiff J.P. is the Plaintiff in the above-captioned action. (*See* ECF No. 1 [Complaint]; Declaration of J.P. ("J.P. Decl.") ¶ 1; Declaration of Channy Sok-Hang ("Sok-Hang Decl.") ¶ 1.) Plaintiff J.P. is a minor. (J.P. Decl. ¶ 2; Sok-Hang Decl. ¶ 2.) Channy Sok-Hang is Plaintiff J.P.'s biological mother and currently retains solely custody of Plaintiff J.P. (J.P. Decl. ¶ 4; Sok-Hang Decl. ¶ 1.)

1 Plaintiff J.P. and Channy Sok-Hang are currently unaware of any conflicts of interest that would  
 2 preclude the appointment of Channy Sok-Hang as guardian *ad litem* of Plaintiff J.P. for purposes of  
 3 prosecuting this action. (J.P. Decl. ¶ 5; Sok-Hang Decl. ¶ 4.)

4 Plaintiff J.P. consents to the appointment of Channy Sok-Hang as his guardian *ad litem* in this  
 5 matter. (J.P. Decl. ¶ 6.) Channy Sok-Hang consents to her appointment as the guardian *ad litem* of  
 6 Plaintiff J.P. in this matter. (Sok-Hang Decl. ¶ 5.)

### 7 **III. REQUEST FOR APPOINTMENT OF GUARDIAN AD LITEM**

8 “District courts have a special duty, derived from Federal Rule of Civil Procedure 17(c), to  
 9 safeguard the interests of litigants who are minors.” *Robidoux v. Rosengren*, 638 F.3d 1177, 1181 (9th  
 10 Cir. 2011). “A minor ... who does not have a duly appointed representative may sue by a next friend or  
 11 by a guardian ad litem. The court must appoint a guardian ad litem—or issue another appropriate order—  
 12 to protect a minor ... who is unrepresented in an action.” Fed. R. Civ. P. 17(c)(2); *see also* E.D. Cal. L.R.  
 13 202(a) (“Upon commencement of an action ... by or on behalf of a minor ..., the attorney representing  
 14 the minor ... shall present ... a motion for the appointment of a guardian ad litem by the Court[.]”).

15 An individual’s capacity to sue is determined by the law of the individual’s domicile. Fed. R. Civ.  
 16 P. 17(b). Under California law, an individual under the age of 18 is a minor. Cal. Fam. Code § 6502. A  
 17 minor may bring suit as long as a guardian conducts the proceedings. Cal. Fam. Code § 6601. A court  
 18 may appoint a guardian *ad litem* to represent a minor’s interests in the litigation. Cal. Code Civ. Proc. §  
 19 372(a). In making the determination concerning the appointment of a particular guardian *ad litem*, a court  
 20 shall consider whether the minor and the guardian have divergent interests. Cal. Code Civ. Proc. §  
 21 372(b)(1).

22 The decision to appoint a guardian *ad litem* “must normally be left to the sound discretion of the  
 23 trial court.” *United States v. 30.64 Acres of Land*, 795 F.2d 796, 804 (9th Cir. 1986); *Williams v.*  
 24 *Superior Court*, 147 Cal. App. 4th 36, 47 (Cal. Ct. App. 2007) (“broad discretion”). When there is no  
 25 conflict of interest, the guardian *ad litem* appointment is usually made on *ex parte* application and  
 26 involves minimal exercise of discretion by the trial court. *In re Marriage of Caballero*, 27 Cal. App. 4th  
 27 1139, 1149 (Cal. Ct. App. 1994).

28 Generally, a parent is recognized as an appropriate guardian *ad litem* on behalf of a minor child.

1 *See, e.g., Basque v. County of Placer*, 2017 U.S. Dist. LEXIS 117290, at \*1-3 (E.D. Cal. July 26, 2017);  
2 *Huginin v. Rocklin Unified Sch. Dist.*, 2015 U.S. Dist. LEXIS 103410, at \*4-5 (E.D. Cal. Aug. 6, 2015);  
3 *Gonzalez v. Reno*, 86 F. Supp. 2d 1167, 1185 (S.D. Fla. 2000) (“[W]hen a parent brings an action on  
4 behalf of a child, and it is evident that the interests of each are the same, no need exists for someone other  
5 than the parent to represent the child’s interests under [Fed. R. Civ. P.] 17(c).”).

6 **IV. CONCLUSION**

7 Plaintiff J.P. respectfully requests the Court to appoint Channy Sok-Hang as his guardian *ad litem*  
8 for purposes of prosecuting this action. A proposed order for appointment is attached hereto.

9 Dated: May 3, 2021

Respectfully Submitted,

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11 By: \_\_\_\_\_

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